

CASE 1

Applicable Standards: FP Canada Standards Council Code of Ethics: Principles 1, 7 and 8

FP Canada Standards Council Rules of Conduct: Rule 24

Background:

FP Canada Standards Council™ (the “Standards Council”) commenced an investigation into the conduct of the CERTIFIED FINANCIAL PLANNER® professional following a News Release from a financial industry regulator which reported findings of misconduct, as well as a self-report by the CFP professional with respect to the above.

The Standards Council investigation revealed that between 2015 and 2016, the CFP professional: processed transactions in two client accounts without discussing the specific elements of the trades with the clients; processed trades in the accounts of one client based on the requests of their spouse and without the authorization of that client; submitted trades in four client accounts without maintaining sufficient evidence of client instructions; and made changes to Know-Your-Client (“KYC”) information in four client accounts without discussing or obtaining the authorization of the clients prior to making the changes. The investigation also revealed that there was a failure to comply with applicable rules, regulations, or other established policies of another oversight body.

Conduct Review Panel’s Decision:

The Conduct Review Panel (the “Panel”) directed that the matter be closed with a Letter of Guidance and Advice. The Panel reminded the CFP professional of a Certificant’s obligations pursuant to the Principles, Rules and Practice Standards in place at the time of their conduct. As of the date of the Guidance and Advice, the relevant Principles, Rules and Practice Standards were Principles 1, 7 and 8 and Rule 24, which provide:

Principle 1 – Duty of Loyalty to the Client:

The Duty of Loyalty encompasses:

- The duty to act in the client’s interest by placing the client’s interests first. Placing the client’s interests first requires the Certificant place the client’s interests ahead of their own and all other interests;

- The obligation to disclose conflicts of interest and to mitigate conflicts in the client's favour; and
- The duty to act with the care, skill and diligence of a prudent professional.

Principle 7 – Diligence: A Certificant shall act diligently when providing advice and/or services to clients. Diligence is the degree of care and prudence expected from Certificants in the handling of their clients' affairs. Diligence requires fulfilling professional commitments in a timely and thorough manner and taking due care in guiding, informing, planning, supervising, and delivering financial advice and/or services to clients.

Principle 8 – Professionalism A Certificant shall act in a manner reflecting positively upon the profession. Professionalism refers to conduct that inspires confidence and respect from clients and the community, and embodies all of the other principles within the Code of Ethics.

Rule 24: A Certificant shall provide their professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities, including FP Canada and the FP Canada Standards Council.

CASE 2

Applicable Standards: FP Canada Standards Council Code of Ethics: Principles 1 and 7
FP Canada Standards Council Rules of Conduct: Rules 7, 21, 22 and 23

Background:

FP Canada Standards Council™ (the “Standards Council”) commenced investigations into the conduct of the CERTIFIED FINANCIAL PLANNER® professional following four separate complaints to FP Canada™ from the Certificant’s former clients.

The Standards Council’s investigations revealed that the CFP professional may have failed to place the clients’ interests first, in that: the CFP professional recommended leveraged loans which may not have been suitable given, amongst other things, the clients’ incomes, loan to net worth ratios, and/or life circumstances; and the CFP professional may not have sufficiently discussed the risks of leveraging and resulting tax implications with the clients.

Conduct Review Panel’s Decision:

The Conduct Review Panel (the “Panel”) directed that the above-noted matters be closed with a Letter of Guidance and Advice with respect to all four complaints. The Panel reminded the CFP professional of a Certificant’s obligations pursuant to the Principles, Rules and Practice Standards in place at the time of their conduct. As of the date of the Guidance and Advice, the relevant Principles, Rules and Practice Standards were Principles 1 and 7 and Rule 7, 21, 22 and 23, which provide:

Principle 1 – Duty of Loyalty to the Client:

The Duty of Loyalty encompasses:

- The duty to act in the client’s interest by placing the client’s interests first. Placing the client’s interests first requires the Certificant place the client’s interests ahead of their own and all other interests;
- The obligation to disclose conflicts of interest and to mitigate conflicts in the client’s favour; and
- The duty to act with the care, skill and diligence of a prudent professional.

Principle 7 – Diligence: A Certificant shall act diligently when providing advice and/or services to clients. Diligence is the degree of care and prudence expected from Certificants in the handling of their clients’ affairs. Diligence requires fulfilling professional commitments in a timely and thorough manner and taking due care in guiding, informing, planning, supervising, and delivering financial advice and/or services to clients.

Rule 7 – A Certificant shall disclose the following information to the client in writing, with

the exception of subsection (b) below. The information under subsection (b) below may be disclosed orally:

- a) An accurate and understandable description of the known costs of the services and products, to the client;
- b) When the services include financial planning or elements of the financial planning process, an accurate and understandable description of how the Certificant, the Certificant's firm are compensated for providing the products and services;
- c) Any contingency or referral fees received by the Certificant or the Certificant's firm, in relation to services provided to the client;
- d) A general summary of potential conflicts of interest between the client and the Certificant, between the Certificant's clients in the case of a joint engagement, the Certificant's employer, or any affiliates or third parties, including, but not limited to, information about any familial, contractual or agency relationship of the Certificant or the Certificant's employer that has a potential to materially affect the relationship with the client;
- e) The specific financial planning services the Certificant will perform for the client;
- f) Any information about the Certificant or the Certificant's employer that could reasonably be expected to materially affect the client relationship/engagement;
- g) Any information that the client might reasonably want to know in establishing the scope and nature of the relationship, including, but not limited to, information about the Certificant's areas of expertise; and
- h) Contact information for the Certificant and, if applicable, the Certificant's employer.

Rule 21 – A Certificant shall always exercise reasonable and prudent professional judgment.

Rule 22 – A Certificant shall make only those recommendations that are both prudent and appropriate for the client.

Rule 23 – A Certificant shall implement only those strategies that are both prudent and appropriate for the client and that the Certificant reasonably believes will not materially and negatively impact the client's best interests.